



15 FEB 2006

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In re Application of	:	
CORNELIUS, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/528,707	:	
PCT No.: PCT/GB03/04025	:	UNDER 37 CFR 1.181
Int. Filing Date: 19 September 2003	:	
Priority Date: 26 September 2002	:	
Atty Docket No.: 102792-436 (11134P1)	:	
For: ODOUR ABSORBING CLOTHES COVER:	:	

This decision is in response to applicant's "Response to Notification of Missing Requirements" filed 12 January 2006 in the United States Patent and Trademark Office (USPTO). The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 19 September 2003, applicant filed international application PCT/GB03/04025, which claimed priority of an earlier application filed 26 September 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 26 March 2005.

On 22 March 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an Information Disclosure Statement; an Application Data Sheet; an unexecuted declaration and power of attorney and a First preliminary amendment.

On 08 December 2005, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date. In addition, applicant was advised that the unsigned declaration filed 22 March 2005 listed a third inventor, Edward Fu, who was not listed in the published international application.

On 12 January 2006, applicant filed the present petition under 37 CFR 1.181 which included a copy of a declaration purportedly filed on 02 June 2005.

DISCUSSION

37 CFR 1.8(b) states:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice the correspondence will be considered timely filed if the party who forwarded the correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The present application did not go abandoned as the filing of 12 January 2006 was a timely response to the Form PCT/DO/EO/905 mailed 08 December 2005. The 37 CFR 1.8 language is included regarding the assigning of a 35 U.S.C. 371 date. 37 CFR 1.8(a) states that, "[T]he actual date of receipt will be used for all other purposes." As such, whether proceeding under 37 CFR 1.8 or accepting the present copy as a timely response to the Form PCT/DO/EO/905, the actual date of the receipt of the last 35 U.S.C. 371 requirement would be the same, 12 January 2006.

Regarding the listing of Mr. Fu on the previously filed, nonexecuted declaration, applicant is correct that since the document was not signed, the actual inventors have only executed a declaration which correctly lists the actual inventors and therefore no further showing nor explanation is required. A review of the document reveals that the filed declaration complies with 37 CFR 1.497(a)-(b) and that applicant has authorized the charging of all appropriate fees to Deposit Account No.: 14-1263. Therefore, all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international application filing date of 19 September 2003 and a date of **12 January 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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